

APR. 16. 2002

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FROST BROWN TODD LLC

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FROST BROWN TODD LLC

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CINCINNATI, OHIO 45201-5715

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COMMUNICATIONS CENTER (513) 651-6775

FAX COVER SHEET

**TOTAL NUMBER OF PAGES
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4

TO: Examiner Dave T. Nguyen/Art Unit No. 1632

FAX NO.: 703-746-5312

FROM: Stephen R. Albainy-Jenci, Esq.

TELEPHONE NO.: 513-651-6839

DATE: April 16, 2002

CONFIRM FAX SENT/RETURN ORIGINAL TO: JFields **EXT.:** 6974

COMMENTS

Re: Serial No. 09/09/151,612
Applicant: Leonard D. Kohn, et al
Filed: 9/11/98

Attached is a copy of the Continued Prosecution Application filed 4/12/02.

THE INFORMATION CONTAINED IN THIS FAX IS INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, ATTORNEYS' WORK PRODUCT AND/OR EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT (OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT), YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US BY COLLECT TELEPHONE.

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CONTINUED PROSECUTION APPLICATION (CPA)**REQUEST TRANSMITTAL**

Submit an original, and a duplicate for fee processing.

CHECK BOX, if applicable.

(Only for Continuation or Divisional applications under 37 CFR 1.53(d))

☐ **DUPLICATE**

Address to:

Assistant Commissioner for Patents
Box CPA
Washington, DC 20231Attorney Docket No.
of Prior Application

5616/3

First Named Inventor

Leonard D. Kohn, et al

Examiner Name

Quang Nguyen

Group Art Unit

1632

Express Mail Label No.

EL583690155US

This is a request for a ☒ continuation or ☐ divisional application under 37 CFR 1.53(d).(continued prosecution application (CPA)) of prior application number 09___/151,612filed on 9/11/98, entitled IMMUNE ACTIVATION BY DOUBLE-STRANDED POLYNUCLEOTIDES**NOTES**

FILING QUALIFICATIONS: The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000).

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

1. ☐ Enter the unentered amendment previously filed on _____ under 37 CFR 1.116 in the prior nonprovisional application.
2. ☐ A preliminary amendment is enclosed.
3. This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
 - a. ☐ **DELETE** the following inventor(s) named in the prior nonprovisional application:

 - b. ☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4. ☐ A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. Information Disclosure Statement (IDS) is enclosed:
 - a. ☐ PTO-1449
 - b. ☐ Copies of IDS Citations

(Page 1 of 2)

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CPA, Washington, DC 20231.

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CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
TOTAL CLAIMS (37 CFR 1.16(c) or (i))		46 -20* =	26	x \$18.00 =	\$ 468.00
INDEPENDENT CLAIMS (37 CFR 1.16(b) or (i))		7 -3** =	4	x \$84.00 =	336.00
MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR 1.16(d))				+ \$_____ =	-0-
				BASIC FEE (37 CFR 1.16)	740.00
				Total of above Calculations =	\$1,544.00
Reduction by 50% for filing by small entity (Note 37 CFR 1.27).					
* Reissue claims in excess of 20 and over original patent. ** Reissue independent claims over original patent.					TOTAL = \$1,544.00

6. ☐ Small entity status: Applicant claims small entity status. See 37 CFR 1.27.
7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 06 - 2226:
- a. ☐ Fees required under 37 CFR 1.16.
- b. ☐ Fees required under 37 CFR 1.17.
- c. ☐ Fees required under 37 CFR 1.18.
8. ☐ A check in the amount of \$_____ is enclosed.
9. ☐ Payment by credit card. Form PTO-2038 is attached.
10. ☒ Applicant requests suspension of action under 37 CFR 1.103(b) for a period of 3 months (not to exceed 3 months) and the fee under 37 CFR 1.17(i) is enclosed.
11. ☒ New Attorney Docket Number, if desired 79661-502168
(Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided heretofore.)
12. a. ☐ Receipt For Facsimile Transmitted CPA (PTO/SB/29A)
- b. ☒ Return Receipt Postcard (Should be specifically itemized, See MPEP 503)
13. ☐ Other: _____

NOTE:

The prior application's correspondence address will carry over to this CPA UNLESS a new correspondence address is provided below.

14. NEW CORRESPONDENCE ADDRESS☐ Customer Number or Bar Code Label

26874

or ☐ New correspondence address below

(Insert Customer No. or Attach bar code label here)

Name	Stephen Albainy-Jenei				
	Frost Brown Todd LLC				
Address	2200 PNC Center, 201 E. Fifth Street				
City	Cincinnati	State	OH	Zip Code	45202
Country	US	Telephone	513.651.6839	Fax	513.651.6981

15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)

Stephen Albainy-Jenei

Signature

Registration No. (Attorney/Agent)

41,487

Date

4/12/02

(Page 2 of 2)

Express Mail[®] mailing label number 86 68-256 1261
 Date of Deposit 4/12/02
 I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to The Commissioner of Patents and Trademarks, Washington, D.C. 20231.

(Typed or printed name of person mailing paper or fee)